

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

FILED
2010 APR 14 A 11:51

JOHN ZAPPOLA

Plaintiff

v.

ROCK CAPITAL SOUND CORP., et al.

Defendants

GERALD E. FLORES
CLERK OF COURTS
CUYAHOGA COUNTY
) **JUDGE JOSE VILLANUEVA**
)
) **CASE NO.: CV-09-704138**
)

) **AMENDED COMPLAINT**
)
)
)
)
)
)
)

Now comes the Plaintiff, John Zappola, by and through counsel, and for his Amended Complaint against the Defendants states as follows:

COUNT ONE

1. The Plaintiff, John Zappola, is a resident of the City of Aurora, the County of Geauga, and the State of Ohio;

2. The Defendants, Rock Capital Sound, Corporation, RCS Corporation and/or Gary J. Jurist (hereinafter referred to collectively as "Defendants"), are corporations and/or individuals duly licensed to do business in the State of Ohio, including Cuyahoga County, as providers of sound, lighting, staging and other equipment and services to be used to stage shows, entertainment and other programs needing such equipment and services;

3. Plaintiff was an employee of the Defendants pursuant to a verbal agreement under which he was to be paid a commission on the gross sales for each job he secured for the Defendants until leaving their employ on August 28, 2009;

4. Plaintiff has been paid a portion of the monies due and owing to him under his contract of employment, but is still owed considerable more in the way of monetary compensation pursuant to his employment contract with Defendants.

COUNT TWO

5. Plaintiff restates, reaffirms and re-alleges the statements and allegations contained in Count One of the Complaint as though fully and expressly rewritten and restated herein and further states that at all times relevant herein he was a sales representative for the Defendants who was paid in part with sales commissions as that term is defined in Ohio Revised Section 1335.11 (A)(1);

6. At the time Plaintiff terminated his contract of employment with the Defendants he was owed commissions in excess of Seventy-five-thousand Dollars (\$75,000.00), which amount has not yet been paid;

7. The Defendants have failed to comply with Section 1335.11 of the Ohio Revised Code and are liable to the Plaintiff for exemplary damages in an amount not to exceed three times the amount of the commissions owed to Plaintiff and reasonable attorney's fees;

COUNT THREE

8. Plaintiff restates, reaffirms and re-alleges the statements and allegations contained in Counts One and Two of the Complaint as though fully and expressly rewritten and restated herein and further states that at all times relevant herein he was a sales representative for the Defendants who maintained a 401(k) retirement program with an entity under the control of Defendants;

9. Since he has left the employ of the Defendants the Plaintiff has attempted to gain access to the monies he had on deposit in his 401(k) retirement plan in order to "roll it over" into another plan with his current employer, however, he has been denied access to his monies by the Defendants in violation of various State and Federal laws and it is believed that the Defendants have converted Plaintiff's monies to their own use.

WHEREFORE, the Plaintiff, John Zappola, prays for Judgment against the Defendants, Rock Capital Sound, Corporation, RCS Corporation and Gary J. Jurist, jointly and severally, for compensatory and punitive damages in an amount in excess of Twenty-five-thousand Dollars (\$25,000.00), together with interest, attorney fees and the costs of this action.

Respectfully Submitted

JAMES M. JOHNSON (0012815)
Attorney for The Plaintiff
1600 Illuminating Building
55 Public Square
Cleveland, Ohio 44113
(216) 615-9838
(216) 696-7047 fax
jmjohnsonesq@gmail.com

JURY DEMAND

Plaintiff hereby demands a Trial by Jury of the maximum number allowed by law on all issues herein.

JAMES M. JOHNSON (0012815)

CERTIFICATE OF SERVICE

Plaintiff has served copies of the foregoing Amended Complaint by ordinary U.S. Mail on this 14th day of April, 2010 to the following:

David A. Campbell, Esq.
Charles F. Billington, Esq.
2100 One Cleveland Center
1375 East Ninth Street
Cleveland, Ohio 44114

Attorneys for Defendants

Richard L. Demsey, Esq.
U.S. Bank Centre
1350 Euclid Avenue, Suite 1550
Cleveland, Ohio 44115

Attorney for Counterclaim
Defendant

JAMES M. JOHNSON (0012815)